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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

YOR20010274US1

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

09/910,544

Filed

July 20, 2001

First Named Inventor

Roberto Ayala, et al.

Art Unit

3627

Examiner

Steven B. McAllister

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

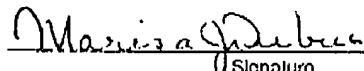
The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96) attorney or agent of record. 46,673  
Registration number \_\_\_\_\_ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_



Signature

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October 17, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.

\*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 17 2005

APPLICANT:	ROBERTO AYALA ET AL.	)
SERIAL NO:	09/910,544	) Group Art Unit: 3627
FILED:	July 20, 2001	) Before the Examiner: Steven B. McAllister
FOR:	NETWORK-BASED SUPPLY CHAIN MANAGEMENT METHOD	) Confirmation No: 2135 )

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Alexandria, VA 22313-1450

Pre-Appeal Brief Request for Review

In response to the Final Office Action dated June 17, 2005, and in conjunction with the concurrently filed Notice of Appeal, the Applicants submit the following for entry in the above-identified application.

**REMARKS**

Claims 51-69 are pending in the instant application. The Examiner has rejected claims 51-69 as being obvious over Lidow, U.S. Published Application No. 2003/0194057 (hereinafter "Lidow"). Additionally, in response to the Final Office Action dated June 17, 2005, in which claims 54-69, 51 and 52 were rejected under 35 U.S.C. 112, first paragraph, the Applicants amended claims 54, 56, 58, 62, 64, and 66 in order to overcome the outstanding rejections. However, in an Advisory Action dated September 23, 2005, the Examiner refused to enter the amendments, alleging that the amendments changed the scope of the claims and would require further search or consideration. Accordingly, the Applicants will address the issues raised under 35 U.S.C. 112, first paragraph at a future time.

The Applicants submit that the rejections of claims 51-69 are in error because the Examiner has not met the burden of establishing a *prima facie* case of obviousness in contravention of the provisions of 35 USC 103.

The Examiner states with respect to claims 54 and 62, that Lidow teaches all of the limitations of claims 54 and 62 except for the recitation of received supplier capability statements are forwarded by the enterprise site. The Examiner then states that this limitation is notoriously old and well known in the art and that it would have been obvious to one of ordinary skill of the art to modify the method of Lidow by having the supplier capability statements forwarded by the enterprise site in order to keep the group "in the loop" regarding supplier status.

The Applicants submit that the rejections of claims 54 and 62 are in error because the two-phased collaboration process as recited in claims 54 and 62, namely, transmitting an unconstrained forecast to suppliers followed by the constrained forecast to the appropriate suppliers, is not met by Lidow. As recited in claims 54 and 62, an unconstrained forecast for multiple enterprise sites is transmitted to suppliers and supplier capabilities are determined. Based upon this determination, a constrained forecast is generated for each enterprise site and transmitted to each of the suppliers that are capable of satisfying the demand. In contrast, Lidow does not distinguish between constrained and unconstrained forecasts. Rather, Lidow teaches that a consolidated demand file, which appears to be an aggregation of each customer's *constrained forecast*, is provided to suppliers (i.e., Lidow teaches a single phase

process)(emphasis added). Support for this may be found in paragraphs 0149-0165 and 0180, as well as Figures 6, 7, and 10A. Specifically, Lidow teaches a planning module executed by the supply chain server that manages forecasts received by customers and “the demands are consolidated, translated into supplier part numbers, and transformed into specific supplier requirements” (par. 0152). The supply chain server performs rough cut capacity matching that assigns demand to suppliers and tests to see if this assignment of demand falls within the supply capacity constraints given by the suppliers. Demand in excess of the supplier’s capacity constraints is re-assigned by supply chain server to another supplier (par. 0154). If there are no demand issues, the process proceeds to the Procurement module (par. 0162) whereby a supply demand is sent to the appropriate supplier (par. 0180). Thus, the teachings of Lidow do not include a second phase of the collaboration process and further suggest that the demand processes described with respect to the Planning module above relate to a constrained forecast since the absence of any demand issues results in the demand proceeding to the Procurement module and the supplier for fulfillment. Contrary to Lidow, Applicants’ claims 54 and 62 recite an unconstrained forecast and supplier capability statements that are used in generating the constrained forecast. The constrained forecast is then transmitted to the suppliers.

Further, Lidow does not teach or suggest a collaboration process that utilizes a combination of communications that include direct transmissions between the supplier and the customer as provided in claims 54 and 62, namely, the supplier capability statements received by the enterprise sites from the corresponding suppliers.

Because Lidow does not teach or make obvious the limitations recited in Applicants’ claims 54 and 62, the Applicants submit that there exists clear error in the outstanding rejections of claims 54 and 62.

The Applicants further submit that the rejection of claim 53 by the Examiner is in error because the Lidow does not teach or make obvious the limitations recited therein. The Examiner asserts that claim 53 is unpatentable in view of Lidow because Lidow allegedly includes all of the elements of claim 53 except the MRP system. The Examiner states that it would have been obvious to one of ordinary skill in the arts to modify the Lidow by using an MRP system to generate the forecasts in order to provide for more efficient use of resources. The Applicants submit that the rejection of claim 53 is in error because, as indicated above with respect to claims 54 and 62, Lidow does not teach or make obvious a two-phase process including generating and

unconstrained forecast followed by an unconstrained forecast. Moreover, Lidow is devoid of teaching or making obvious the use of an MRP system to generate the constrained and unconstrained forecasts in the manner recited in claim 53. Accordingly, because Lidow does not teach or make obvious each of the elements of claim 53, the Applicants submit that there exists a clear error in the outstanding rejection.

In view of the foregoing, it is urged that the final rejection of claims 51-69 be overturned. The final rejection is in error and should be reversed. The fee set forth in 37 CFR 41.20(b)(1) is enclosed herewith. If there are any additional charges with respect to this Request, or otherwise, please charge them to Deposit Account No. 50-0510.

Respectfully submitted,

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